

REMARKS

The Office Action mailed June 23, 2005 has been received and reviewed. Claims 1-7 are in the case. Claims 1-7 stand rejected under the judicially created doctrine of double patenting as being unpatentable over U.S. Patent No. 6,675,205. Claims 1-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,253,198 to Perkins.

DOUBLE PATENTING REJECTION

Claims 1-7 stand rejected under the judicially created doctrine of double patenting in view of claims 1-9 in Applicant's prior issued patent. Applicant hereby submits a terminal disclaimer disclaiming any portion of the patent term beyond the term of the issued patent, rendering the rejection moot.

REJECTIONS UNDER 35 U.S.C. §103

Claims 1-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,253,198 to Perkins. Applicant respectfully asserts that a *prima facie* case of obviousness has not been established. In order to establish obviousness, "[f]irst, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." MPEP 2142.

Applicant respectfully asserts that none of the cited references whether alone, or in combination, disclose or fairly suggest all claim limitations. Perkins only discloses a method for maintaining an updated index of web content. Col. 4, ln 30 – Col. 5, ln. 27. Perkins and the other


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cited references fails to disclose or suggest a file sharing program operable to store file requests from requesting peer computers until the file sharing program detects connection to the server of storing peer computers storing the requested file. Accordingly, a *prima facie* case of obviousness has not been established.

With respect to added claim 8, applicant further asserts that Perkins and the other cited references fail to disclose transmitting a requested file to the server and storing the requested file until a requesting peer computer connects to the server. The web content indexing software of Perkins is not operable to perform the novel handling of file requests and file transfer between a storing peer computer, server, and requesting peer computer.

CONCLUSION

For the reasons set forth above, the claims are believed to be in condition for allowance. The examiner is invited to call the undersigned to resolve any questions or concerns that may be resolved by a telephone conference.

Respectfully submitted,

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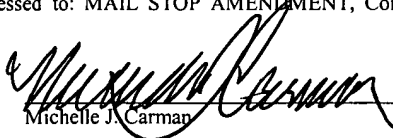


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MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

10/24/08
Date of Deposit



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